



Ralph S. Northam  
Governor

R. Brian Ball  
Secretary of  
Commerce and Trade

# COMMONWEALTH of VIRGINIA

Erik C. Johnston  
Director

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

TO: Members of the Commission on Local Government  
FROM: DHCD Staff  
DATE: December 20th, 2022  
SUBJECT: Draft Agenda and Meeting Materials

**Please find enclosed the following:**

1. Draft agenda for your regular meeting to be held in person on Friday, January 6th, 2023, at 11:00 a.m. at the Virginia Housing Center (4224 Cox Rd, Glen Allen, VA 23060);
2. Draft Minutes from the November 4th, 2022 Regular meeting of the Commission;
3. Commemorating Resolution for Commissioner Rosemary Mahan; and
4. Articles of interest to the Commission.

Please note that the Winter 2022 Municipal Utility Data Report will be presented to the Commission retroactive consideration at this meeting. Due to reporting deadline requirements set forth in the budget, this report falls outside of the Commission's regular meeting schedule. The report, which will be finalized and submitted to the General Assembly on December 31, will be emailed to the Commission shortly thereafter.

If you have any questions or require additional information, please feel free to contact us at 804-310-7151 or [legrand.northcutt@dhcd.virginia.gov](mailto:legrand.northcutt@dhcd.virginia.gov)

We look forward to seeing you on January 6<sup>th</sup>!

Partners for Better Communities



[www.dhcd.virginia.gov](http://www.dhcd.virginia.gov)



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# COMMONWEALTH of VIRGINIA

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## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### AGENDA

**Commission on Local Government  
Regular Meeting: 11:00 a.m., January 6, 2023  
Virginia Housing Center  
4224 Cox Rd, Glen Allen, VA 23060**

**For the public,  
Commission on Local Government Meeting  
Friday, January 6, 2023 · 11:00am – 1:00pm  
Google Meet joining info  
Video call link: <https://meet.google.com/mbi-qptv-pqi>  
Or dial: (US) +1 937-703-4233 PIN: 305 233 969#**

1. Occupancy for the meeting space is limited, so the Commission encourages members of the public to observe the meeting through the Google Meet link provided above. Please contact LeGrand Northcutt ([legrand.northcutt@dhcd.virginia.gov](mailto:legrand.northcutt@dhcd.virginia.gov)) for information on how to connect to the meeting using this method.
2. Members of the public viewing the meeting through the Google Meet option are required to mute themselves during the meeting unless called upon by the Commission Chair to speak. The CLG reserves the right to remove from its virtual meetings anyone who does not abide by these rules.
3. Access to meeting materials for members of the public is available on the corresponding meeting page of the [Virginia Regulatory Town Hall website](#) and on [Commonwealth Calendar](#).

#### **I. Call to Order**

#### **II. Election of Officers**

#### **III. Administration**

- A. Approval of the Draft Agenda (Mr. Johnson)
- B. Approval of Minutes of the Regular Meeting on November 4, 2022 (Mr. Johnson)
- C. Public Comment Period (Mr. Johnson)

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- D. Staff's Report (Mr. Northcutt)
- IV. Cases before the Commission**
- A. Leesburg/Loudon (Mr. Northcutt)
- B. New Market/Shenandoah (Mr. Northcutt)
- V. Municipal Utility Data Report**
- A. Staff Presentation (Mr. Sawyer)
- B. Commission Deliberation and Action
- VI. FY21 Fiscal Stress Report Status Update**
- A. Staff Presentation (Ms. Wheaton)
- VII. 2023 General Assembly Session**
- A. Staff Presentation (Staff)
- VIII. 2023 Regular Meeting Schedule**
- A. Staff Presentation (Mr. Anderson)
- IX. Other** (Mr. Johnson)
- X. Adjournment** (Mr. Johnson)



Glenn Youngkin  
Governor

Caren Merrick  
Secretary of  
Commerce and Trade

# COMMONWEALTH of VIRGINIA

Bryan W. Horn  
Director

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Commission on Local Government

November 4, 2022

11:00 A.M.

Virtual

#### Members Present (attending virtually)

Diane M. Linderman, PE, Chair  
Ceasor T. Johnson, D.Min, Vice Chair  
Rosemary M. Mahan  
Stephanie Davis, PhD  
Edwin S. Rosado

#### Members Absent

None

#### Call to Order

The Commission on Local Government (CLG) Chair, Diane M. Linderman, called the meeting to order at 11:00 a.m.

Mr. LeGrand Northcutt, Senior Policy Analyst at the Virginia Department of Housing and Community Development (DHCD) initiated a roll call vote. Mr. Northcutt informed Chair Linderman that a quorum of Commissioners Linderman, Davis, Rosado, and Mahan were present for the virtual meeting.

#### Administration

Bryan Horn, Director of the Department of Housing and Community Development, introduced himself to the Commission and thanked the Commissioners for their work.

The Commission observed a moment of silence to remember Dr. John Moeser of Richmond, Virginia, who died on October 17, 2022. Among his many accomplishments, Dr. Moeser assisted with Commission with its 2018 Report on Annexation Alternatives.

The agenda was adopted unanimously on a motion by Commissioner Rosado and second by Commissioner Mahan.

The minutes from the September 9th regular meeting were adopted unanimously on a motion by Commissioner Mahan and second by Commissioner Rosado.



## Staff Report and Updates

Chair Linderman opened the floor for the public comment period. There were no public comments, and the public comment period was closed.

Mr. Northcutt gave an update on articles of interest to the Commission that were distributed in the meeting packet.

The Commission recognized Commissioner Mahan in her final meeting as a Commissioner.

Commissioner Johnson joined the meeting virtually at 11:20.

## Voluntary Settlement Agreement between the Town of New Market and Shenandoah County

Jason Ham of Litten & Sipe, LLP presented an overview of the Voluntary Settlement Agreement on behalf of both parties. Also present were Todd Walters representing the Town of New Market, and Evan Vass, representing Shenandoah County.

The parties proposed the following review timeline:

- Thursday, March 9<sup>th</sup>
  - 2:00-4:00 p.m.; presentations by the parties
  - 4:00-6:30 p.m.; break
  - 6:30-8:30 p.m.; public hearing
- Friday, March 10<sup>th</sup>
  - 10:00-11:30 a.m.; meeting of the Commission to discuss presentations

At the suggestion of Chair Lindeman, the Commission amended the start time of the Friday meeting to 9:00 a.m.

## Town-initiated Annexation between the Town of Leesburg and Loudoun County

Greg Haley of Gentry Locke, presented an overview of the Town's involvement in the annexation. Also present on behalf of the Town were Jessica Arena, Chris Spera, and Andrew Bowman.

Andrew McRoberts of Sans Anderson introduced the County's involvement in the annexation. Also present on behalf of the County were Leo Rogers, Nick Lawrence, Max Lavan, and Loudoun County Supervisor Kristen Umstatt. Supervisor Umstatt presented an overview of the County's involvement in the annexation.

The parties proposed the following review timeline:

- Wednesday, May 17<sup>th</sup>
  - 9:00-noon; presentations by Town
  - Noon-2:00 p.m.; break
  - 2:00-5:00 p.m.; presentation by Town



- Thursday, May 18th
  - 9:00-noon; presentations by County
  - Noon-2:00 p.m.; break
  - 2:00-5:00 p.m.; presentation by County
  - 5:00-7:00 p.m.; break
  - 7:00-10:00 p.m.; public hearing
- Friday, May 19<sup>th</sup>
  - 9:00-10:30 a.m.; closing arguments
  - 10:30- 11:00 a.m.; break
  - 11:00-1:00 p.m.; site visit
  - 1:00-2:00 p.m.; Meeting of the Commission to discuss presentations

At the suggestion of Commissioner Davis, the Commission amended the schedule by changing the site visit to Tuesday, May 16<sup>th</sup> from 3:00-6:00 p.m. and moving the Commission meeting start time on Friday to 11:00 a.m.

The County will send a response to the Town's filings by February 1<sup>st</sup>, and the Town will send any reply by March 20<sup>th</sup>. The parties have agreed to a proposed due date for the Commission's report of July 7<sup>th</sup>.

Commissioner Rosado moved and Commissioner Johnson seconded to, with the agreement of the parties, extend the due date for the Commission's report beyond the statutory deadline to July 7<sup>th</sup>. The motion passed unanimously.

Commissioner Johnson moved and Commissioner Davis seconded to approve the review schedules as presented and amended. The motion passed unanimously.

#### 2022 Cash Proffer Survey and Report

Mr. Chase Sawyer, Senior Policy Analyst at DHCD, presented the results of the 2022 Cash Proffer Survey and accompanying report to the Commission.

The Commissioners discussed the future of cash proffers and any changes that might be made to state law to assist rural and lower-growth localities with revenue collection.

Commissioner Davis moved to adopt the report with a second by Commissioner Mahan. The motion passed unanimously.



Commission Workgroup Updates	Staff gave updates on the Broadband Stakeholder Advisory Workgroup and the Virginia Code Commission Workgroup on Public Notices. Both workgroups have concluded their work.
Events of Interest	Commissioners were encouraged to attend the VACo annual conference, the Virginia Governor’s Housing Conference, and the Virginia Local Government Day.
Schedule of Regular Meetings for 2023	<p>Staff presented the proposed schedule of regular meetings for 2023. All meetings will begin at 11:00, place to be determined.</p> <ul style="list-style-type: none"> <li>• January 6<sup>th</sup></li> <li>• March 10<sup>th</sup> (in conjunction with meetings in New Market)</li> <li>• May 5<sup>th</sup> (virtual)</li> <li>• July 7<sup>th</sup></li> <li>• September 8<sup>th</sup></li> <li>• November 3<sup>rd</sup> (virtual)</li> </ul> <p>Commissioner Rosado moved to adopt the proposed meeting schedule with a second by Commissioner Johnson. The motion passed unanimously.</p>
Other business	The Commission will elect its chair and vice chair at the January meeting.
Adjournment	Commissioner Johnson moved to adjourn until the next regular meeting on January 6 <sup>th</sup> , 2023 with a second by Commissioner Rosado. The motion passed unanimously.



**COMMISSION ON LOCAL GOVERNMENT  
COMMONWEALTH OF VIRGINIA**

At a regular meeting of the Commission on Local Government held in Richmond, Virginia, on Friday, January 6th, 2023, at the hour of 11:00 a.m., the following resolution was unanimously adopted:

**WHEREAS, Rosemary Mahan**, was appointed by Governor Terence R. McAuliffe and confirmed by the 2018 Virginia General Assembly to serve on the Commission on Local Government for a term of five years; and

**WHEREAS**, She served the Commission with distinction from November 2018, until December 2022; and

**WHEREAS**, She was unanimously elected Vice-Chair of the Commission, January 7, 2019, serving in that capacity during 2019; and

**WHEREAS**, She was unanimously elected Chair of the Commission on January 7, 2020, serving in that capacity during 2020; and

**WHEREAS**, As Chair, she oversaw the Commission during the COVID-19 public health emergency modeling both resilience and adaptability; and

**WHEREAS**, As Vice-Chair, she oversaw the Commission's Culpeper County citizen annexation case; and

**WHEREAS**, Her commitment to the best interests of the Commonwealth and its localities coupled with her knowledge and experience in local government affairs made her an asset to this Commission; and

**WHEREAS**, Her effective advocacy of his perspective, along with his respectful consideration of the views of others rendered her an invaluable participant in the Commission's deliberations; and

**WHEREAS**, Her intelligence, integrity, and dedication earned her the sincere respect and admiration of the members of this Commission, its staff, and all others associated with its activities; and

**WHEREAS**, Her good humor, her wit, and her graciousness added immeasurably to the pleasure and satisfaction derived from service on this Commission; and

**WHEREAS**, The termination of her service with the Commission deprives the Commonwealth of a distinguished and faithful public servant and this body of a valued member and good friend;

**NOW, THEREFORE, BE IT RESOLVED**, That the Commission on Local Government does hereby express its gratitude to **Rosemary Mahan**, for her many contributions to this body and acknowledges with regret the loss of her company and good counsel.

**BE IT FURTHER RESOLVED**, That a copy of this resolution be spread upon the Minutes of this meeting and that a framed copy thereof be presented to **Rosemary Mahan**, as a permanent testament of our affection, esteem, and high regard.

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Diane M. Linderman, Chair

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Ceasor T. Johnson, Vice-Chair

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Stephanie Dean Davis, Ph.D.

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Edwin Rosado

## POLITICS

# Martinsville votes in anti-reversion majority on city council

*The two challengers claimed victory although one slot could come down to mail ballots that haven't arrived yet.*

 by **Cardinal Staff**  
November 8, 2022



Martinsville city council meets here. Courtesy of City of Martinsville.

Martinsville voters appear to have voted in two challengers who oppose the city giving up its charter, giving the city a new council with an anti-reversion majority.

Incumbents Jennifer Bowles and Danny Turner had supported reversion; challengers L.C. Jones and Aaron Rawls opposed it.

With seven of nine precincts reporting, Jones led the balloting with 1,699 votes, followed by Rawls with 1,651. Bowles was just behind with 1,602 votes and Turner trailed with 1,098 votes.

The two precincts yet to be counted are the absentee votes and any mail ballots postmarked on or before Election Day and received by noon on Monday. Depending on how many of those votes there are, and who they are for, that means there's a chance Bowles could yet pull ahead.

The previous council had a 4-1 majority in favor of reversion. If the results stand, Martinsville will now have a 3-2 majority against reversion. Under reversion, Martinsville would give up its city charter and become a town within Henry County. Advocates say that would save the city money; opponents say it would diminish Martinsville's stature. The General Assembly has mandated a referendum in Martinsville before reversion can happen.

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**GOVERNMENT AND PUBLIC INSTITUTIONS**

# In central Virginia, there aren't enough candidates to fill open seats in local governments



by **JESSIE HIGGINS**

NOVEMBER 21, 2022



In Mineral, there were six open seats for Town Council in 2022. Just five people ran for the office. Acroterion, CC BY-SA 3.0/Wikimedia Commons

Like many small communities in Central Virginia, the Town of Mineral had trouble mustering enough candidates to fill its six-person town council this year.

In the Nov. 8 election, just five names appeared on the ballot — so each was guaranteed a spot on Council.

“Now the election folks will rack and stack the write-in candidate who got the most votes, and the next and the next,” said Ed Jarvis, Mineral’s mayor-elect. “And then they’ll go to the person with the most and say, ‘Are you willing to serve?’”

Jarvis paused for a moment.

“We have 330 voters, and we couldn’t even muscle up six firm names,” he said.

It’s a common issue. This year in the [central Virginia counties in Charlottesville Tomorrow’s voter guide](#), nine of 20 local races were either uncontested or did not have enough candidates for open positions.

## More from the 2022 Election

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**Good, Spanberger — and the mayors, councils and school boards of central Virginia**

NOVEMBER 11, 2022

**It’s Election Day!**

NOVEMBER 8, 2022

**Scottsville Town Council candidate Dan Gristko responds to voter questions**

NOVEMBER 7, 2022

Stanardsville and Lousia both had uncontested mayoral races. Only one person ran for Greene County Commissioner of Revenue. And Stanardsville and Scottsville joined Mineral with fewer town council candidates than open posts.

Why? Politicians and political scientists say it’s about local party politics and money.

Local party committees are often weak and struggle to recruit candidates, said Carah Ong Whaley, the academics program officer at the Center for Politics at the University of Virginia. It’s a problem

that continues to get worse as the country becomes more polarized and parties suck resources out of localities to benefit the national party.

That polarization is contributing in another way — communities are often so starkly either Democrat or Republican that only candidates of the leading party have a chance of getting elected, said David Toscano, a former Virginia House delegate who also served on Charlottesville City Council. The other party candidates rarely try.

But, in the smallest of communities, the issue is often a financial one.

“These are basically volunteer positions,” Jarvis said. “In Mineral, town councilors get \$100 a month and the mayor gets \$300 a month.”

That means that the only people capable of taking the positions are either retired — like Jarvis who retired from the U.S. Army — or have other sources of income.

“It has always been that way,” Toscano said. “How do you have salaries be high enough so that you can attract people who want to serve who are not either retired or rich?”

For small communities, it can be difficult for taxpayers to support higher salaries for those who hold public office. And, even if they can, that sometimes creates a different sort of problem, Toscano said: career politicians.

“Then you have the other issue of people just getting the job to pay their way in the world,” Toscano said. “It’s called public service for a reason.”

Jarvis feels strongly about service. He previously served on the Mineral Town Council and declined to take the \$100 per month salary. As mayor, he intends to forgo compensation as well.

“It’s my civic duty,” he said. “I, personally, have been a public servant my whole life. You do it for the love of country, town or city.”



[https://www.loudountimes.com/news/government/loudoun\\_county/loudoun-supervisors-to-monitor-youngkins-plan-to-direct-local-land-use/article\\_f8878d1a-764f-11ed-86e2-5fe08fbee666.html](https://www.loudountimes.com/news/government/loudoun_county/loudoun-supervisors-to-monitor-youngkins-plan-to-direct-local-land-use/article_f8878d1a-764f-11ed-86e2-5fe08fbee666.html)

FEATURED

## Loudoun Supervisors to monitor Youngkin's plan to direct local land use

By Amena H. Saiyid [asaiyid@loudountimes.com](mailto:asaiyid@loudountimes.com)

Dec 7, 2022



Loudoun County's Government Center in Leesburg.

Nathaniel Cline

Loudoun supervisors say they will closely monitor Gov. Glenn Youngkin's plan to reform local land-use and zoning laws and oppose any efforts to encroach on their powers.

At the Dec. 6 business meeting, all board members were on the same page when it comes to preserving the authority of local governments to make land-use decisions under their zoning laws.

With the exception of Supervisor Tony Buffington, R-Blue Ridge, who wasn't present, the remaining eight supervisors voted for a motion to closely monitor the governor's "Make Virginia Home" plan that aims to boost housing in the Commonwealth. The board also agreed to work with the Virginia Association of Municipal League and the Virginia Association of Counties to develop a strategy to for potential legislation or budget amendments to the state budget that may impact local land-use planning and zoning authority.

Board Chair Phyllis Randall, D-At Large, was aghast, noting that Loudoun County has grown 35% in the last decade, and remains the fastest growing county in the state. She said local land-use and zoning reviews take up a significant chunk of the Board's time. "The idea that Richmond could do zoning and land use, either through legislation or through the budget, for every locality in Virginia is preposterous," Randall said.

Moreover, she added that whenever the board approves homes, it also approves the corresponding infrastructure, such as schools, roads, water and sewer, parks and public safety, to be built closely along these developments. "They don't know our land use," Randall said.

Released Nov. 18, Youngkin's "Make Virginia Home Plan" seeks to boost housing through a number of means, including the following:

- Establish guard rails for zoning/land use review processes that include deadlines by which localities must act, and consequences if they do not, for localities seeking state assistance to increase the growth of their economies.
- Create transparency by requiring localities to report on their policies and actions that impact housing development.
- Investigate comprehensive reforms of Virginia's land use and zoning laws.

Youngkin's budget is due out Dec. 15. As of yet, John Freeman, the county's new legislative liaison, said he has not heard of any bills being introduced to language dealing with the governor's plan.

"Everybody is pretty much waiting to see what the budget will say, as well as if a bill will be introduced," Freeman said.

Ahead of the legislative session that begins Jan. 13 in Richmond, the Virginia Municipal League (VML) and the Virginia Association of Counties (VACo) have included position statements in their respective 2023 legislative programs that makes no bones about where they stand on local land use and zoning authority.

VACo Local Government Policy Director Joe Lerch said the association welcomes increased federal and state funding as well as appropriate incentives to assist localities in fostering affordable housing as well as workforce housing for employees such as teachers and first responders.

However, he emphasized, “We also believe that sufficient guard rails exist for counties in regards to land use decisions. We firmly believe this is a local responsibility set out in the Code of Virginia. We support maintaining and expanding local authority to plan and regulate land use and we will oppose legislation that weakens these key local responsibilities.

Likewise, VML in its 2023 legislative program made it clear that “Localities must maintain control of local land use decisions. Neither the state nor the federal government should usurp or pre-empt a locality’s authority to make such decisions, nor should they impose requirements that weaken planning and land use functions.”

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Amena Saiyid

[https://www.loudounnow.com/news/leesburg/leesburg-annexation-costs-top-500k/article\\_66f4faee-65c5-11ed-ba70-ebb18a58581d.html](https://www.loudounnow.com/news/leesburg/leesburg-annexation-costs-top-500k/article_66f4faee-65c5-11ed-ba70-ebb18a58581d.html)

## Leesburg Annexation Costs Top \$500K

Norman K. Styer

Nov 16, 2022



A sign at Compass Creek, a development near the Town of Leesburg.

Renss Greene/Loudoun Now

The Leesburg Town Council's effort to annex the Compass Creek development, including the Microsoft data center campus, has cost \$511,500 so far. On Tuesday night, the council allocated another \$120,000 for the project.

After years of negotiations with the county government on a series of boundary line adjustments that would incorporate the property stalled, the council in September initiated an annexation petition through the Virginia Commission on Local Government.

The additional money is needed to cover the cost of the commission's review and any subsequent court action, according to the council's funding resolution. The money will come from unallocated fund balance in the Fiscal Year 2023 budget.

Town Attorney Christopher Spera and other staff members on Monday night updated the council on the status the annexation effort during an hour-long, closed-door briefing.

Town and county plans call for the area to be served by town utilities and, ultimately, be incorporated into the town limits. However, the county government generally supports boundary adjustments—typically conducted as a cooperative, voluntary method of incorporation—when the landowners support it. An annexation through the Commission on Local Government is an adversarial approach, with the town effectively suing the county to take control of the land.

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**Norman K. Styer**

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## eNews December 16, 2022



Friday, December 16, 2022 - 04:38pm

**This edition of eNews is sponsored by:**



*Watershed Geo® provides solutions for ongoing problematic environmental issues. We continually challenge traditional solutions with systems that are sustainable, low-cost and engineered for extreme performance. Our products solve an array of issues in industries such as geotechnical engineering, waste management, erosion control and mining. [Learn more >](#)*

- [FCC National Broadband Map: Challenge process for local governments deadline is Jan. 13](#)

## Budget

# Gov. Youngkin presents budget amendments to General Assembly



Proposed additional tax cuts and increased spending for public safety, behavioral health, economic development, and workforce are some of the major components of the package of budget amendments presented to the General Assembly by Gov. Glenn Youngkin on Dec. 15 in Richmond.

The budget amendments as proposed by Youngkin, which is more than 750 pages of single-spaced text and numbers, can be seen on the Department of Planning and Budget's [website](#).

The budget amendments will now be examined and acted upon by the House Appropriations and the Senate Finance and Appropriations Committees of the General Assembly, which will present their versions of the budget following cross-over.

Use the links below for short overviews of some items of interest to local governments in the proposed budget. VML will follow up with additional items and details in the coming days.

- [Economic Development](#)
- [Education](#)
- [Environmental Quality](#)
- [Finance](#)
- [Health & Human Services](#)
- [Public Safety](#)
- [Transportation](#)

## Economic Development

- A total of \$450.0 million over the biennium to invest in site development for large economic development projects.
- Expansion of the Virginia Main Street program with an additional \$2.0 million each year.
- A total of \$61.8 million in fiscal year 2024 to support various components of workforce development, including additional funding for Go Virginia workforce funding and increasing availability of industry recognized credential to high school students through the Virginia Community College System.
- Funding of \$10.0 million in FY2024 for a pilot project to provide financial assistance to localities/PDCs representing their local governments to increase capacity and accelerate review and issuance of building permits by local building departments.

## Education

- A total of \$50.0 million would be deposited into the College Partnership Laboratory School Fund in FY2023.
- One-time retention bonus funding of \$45.2 million for instructional aides and support positions would be provided in FY2024; funds would be based on the state's share of SOQ funding for these positions.
- Additional funding totaling \$16.97 million would be provided in FY2024 to increase the number of reading specialists in the fourth and fifth grades. One additional reading specialist instructional position would be added for every 550 students in fourth and fifth grades during the 2023-2024 school year.
- Language on page 729 would change the definition of "College Partnership Laboratory School." The current definition of college partnership laboratory schools includes private institutions and requires a teacher education program approved by the Board of Education. As proposed, those qualifications would be struck, and language added to include public higher education centers, institutes, or authorities.

- There is no proposed funding increase for the School Construction Grant Fund. Funding for this program is a VML legislative priority as well as a recommendation from the Commission on School Construction and Modernization.

## **Environmental Quality**

- A deposit of \$87.1 million into the Water Quality Improvement Fund in FY2024; a deposit is required by statute when there are surplus general fund revenues collected. A total of \$45 million of this appropriation is directed towards agricultural best management practices within the Chesapeake Bay Watershed.
- Funding of \$100 million is proposed for the Resilient Virginia Revolving Loan Fund; this is contingent on sufficient FY2023 revenues being collected.
- Directs \$43.9 million of excess general fund revenues collected in 2022 and \$107 million of federal State and Local Recovery Funds to the Enhanced Nutrient Removal Certainty Program.
- Directs \$43.9 million of the excess general fund revenues collected in 2022 and \$107 million of federal State and Local Recovery Funds to the Enhanced Nutrient Removal Certainty Program. This program assists small and medium size wastewater treatment plants with capital improvements to reduce nutrient loads such as nitrogen and phosphorous loads that otherwise flow into the waters of the Commonwealth and ultimately the Chesapeake Bay. The proposed budget notes that the \$43.9 million of excess revenues is a share of the statutory 10% deposit of excess revenues that must be made to the Water Quality Improvement Fund.

## **Finance**

- No language addressing the local one percent sales tax for groceries that goes to local government (don't get excited – bills are being introduced to eliminate the local one percent).

- Language providing that localities out of compliance with submitting required audit information to the state or with outstanding debts would be reported to the Secretary of Finance to determine if state technical assistance or intervention is necessary.

## **Health & Human Services**

- Approximately \$230 million in new spending for behavioral health, including \$20 million to double the number of mobile crisis response teams for statewide coverage; \$58 million for new crisis centers for evaluation/treatment; \$20 million to help private hospitals set up psychiatric services in their emergency departments; An additional \$9.0 million in FY 2024 to expand school-based mental health pilot; and \$8 million for housing/supports for individuals leaving state hospitals who face challenges to discharge because of the need for housing and services.
- Funding of \$3.5 million in FY2024 and five staff positions for the Opioid Abatement Authority under the Office of Health and Human Resources.
- Creation of an Opioid Abatement and Remediation Fund in the Office of the Attorney General to receive funds from any settlement, judgement, verdict, or other court order related to consumer protection claims (other than funds going to the Opioid Abatement Authority).
- No additional per diem funding based on revised jail inmate population forecasts.

## **Public Safety**

- No new funding for state assistance to local law enforcement (HB 599 program).

## **Transportation**

- Redirects \$300 million of transportation revenues from the Six-Year Improvement Program (\$200 million) and Transportation Infrastructure Bank (\$100 million) for FY2023 and proposes using these revenues for a deposit

to the Transportation Partnership Opportunity Fund (TPOF). The TPOF is a fund used to “address the transportation aspects of economic development opportunities” administered by VDOT with grants for improvements directed towards eligible regional and local governments.

**VML Contacts:** Janet Areson, [jareson@vml.org](mailto:jareson@vml.org) ; Josette Bulova, [jbulovala@vml.org](mailto:jbulovala@vml.org) ; Mitchell Smiley, [m-smiley@vml.org](mailto:m-smiley@vml.org)

[\[top of page\]](#)

## VML News

# Elected Officials Conference in- person registration closes Dec. 23



Thanks to everyone who had registered to attend either in person or virtually for the Elected Officials Conference happening January 4, 2023.

Please be aware that in-person registration closes on Dec. 23 (end of day). The event will be held at The Place at Innsbrook (4036-C Cox Road, Glen Allen, VA 23060). [Venue website here](#) >.

Links to attend virtually and materials will be sent by email to registrants prior to the event.

Registration and more information are [available here](#) >.

## About the Elected Officials Conference

Both new *and* seasoned public officials will benefit from this valuable opportunity to learn from speakers with extensive experience working with local government officials. In addition to required training on FOIA/COIA, the conference offers an excellent opportunity to learn what it takes to succeed as an elected official. Topics pertinent to local officials such as

budgeting, risk management, and cybersecurity will also be covered,

**VML Contact:** Rob Bullington, [rubllington@vml.org](mailto:rubllington@vml.org)

[\[top of page\]](#)

## Register now for Local Government Day taking place Jan. 19, 2023



It's a day for all of us. Counties. Cities. Towns. Planning Districts. It's a day for us to learn how the decisions being made by the General Assembly might affect us. And it's a day to make our voices heard. Attend Local Government Day. Then visit the Capitol to meet with your legislators and observe committee meetings. Later join us for a reception.

This event is hosted by VML, VACo, VAPDC, and the Virginia Rural Center.

More information and a link to register are [available here >](#).

**VML Contact:** Rob Bullington, [rbullington@vml.org](mailto:rbullington@vml.org)

[\[top of page\]](#)

## VML offices closed Dec. 23 – Jan. 2

We are taking time to celebrate the holidays and rest up for what promises to be a busy 2023 General Assembly session. We wish everyone the joy of the season!

[\[top of page\]](#)

## Virginia Town & City: What to expect in 2023

Due to the rising cost of materials, VML will combine the November and December issues our magazine *Virginia Town & City* in 2023 for a total of 9 issues. By taking this step we will not need to raise the cost of advertising or subscriptions.

The 2023 Editorial Calendar is [available here >](#).

Those interested in advertising in *Virginia Town & City* can [learn more here >](#).

**VML Contact:** Rob Bullington, [rbullington@vml.org](mailto:rbullington@vml.org)

[\[top of page\]](#)

## FOIA

# Freedom of Information Act (FOIA) Council discusses items related to personal information sharing

The FOIA Council met on Wednesday of this week and appointed Delegate Simon as their new Chairman with Senator Locke moving to the Vice Chairman.

The FOIA Council took up [HB980](#) (Williams Graves) from the 2021 General Assembly Session in the draft that a FOIA subcommittee wrote but did not endorse. The bill's goal was to protect personal contact information for complainants in all local enforcement complaints. Prior to this proposal only names and zoning enforcement complaints had such protection. Unfortunately, the bill was watered down by the committee and now the exemption will only apply to the following: zoning enforcement complaints, Uniform Statewide Building Code complaints and Statewide Fire Prevention complaints.

Significantly, the protection for the complainant does NOT include local code complaints pertaining to public health and safety and nuisances or local code complaints pertaining to waste and recycling. This version was recommended by the FOIA Council.

Stay tuned to see what version the Patron will introduce in the 2023 General Assembly Session.

The FOIA Council also briefly discussed the case of [Hawkins v. Town of South Hill](#) which was decided by the Supreme Court in October of this year and remanded to the Circuit Court. This case sets forth guidance on what constitutes "personal

information” under FOIA along with adding “we will not legislate from the bench regarding which specific pieces of information are private.....”

It will be interesting to see the outcome of the remanded case. However, during their meeting the FOIA Council decided that legislation related to the case was not necessary!

**VML Contact:** Michelle Gowdy, [mgowdy@vml.org](mailto:mgowdy@vml.org)

[\[top of page\]](#)

## Housing

# Virginia Housing Commission hears presentations on hemp, 3-D construction, and future housing needs

The Virginia Housing Commission met on Wednesday of this week and heard a very interesting [presentation](#) by Cameron McIntosh, Founder, Americhanvre Hemp Building Solutions on why hemp should be considered as a viable building material.

There was also a presentation by Andrew McCoy, Ph.D., Director, Virginia Center for Housing Research, Virginia Tech about their first [3-D house](#). The Center will continue to monitor the house for efficiency to improve the technique. There will be a presentation on the efficiency at a later meeting.

Susan Dewey, Director of Virginia Housing spoke about the [HB854](#) study which asked stakeholders to determine the current and future housing needs of Virginians, including the availability of affordable housing across the state. Data from federal, state, and other sources were compiled, analyzed, and translated into major findings for the following topics. The study is complete and quite comprehensive.

Also, during the meeting, the Virginia Housing Commission staff indicated their hope that their new website will be live before the holidays!

**VML Contact:** Michelle Gowdy, [mgowdy@vml.org](mailto:mgowdy@vml.org)

## Health & Human Services

# Health Commission approves initiatives affecting auxiliary grants, local health departments

### Auxiliary Grants

Increasing the base Auxiliary Grant rate as well as the personal needs allowance and expanding the list of eligible living arrangements for which Auxiliary Grants can be used were approved as recommendations for the 2023 General Assembly Session by the Joint Commission on Health Care. The Commission met on Dec. 7 in Richmond.

Commission members approved a staff recommendation to seek a budget amendment in the 2023 General Assembly Session to increase the Auxiliary Grant rate to \$2,500 a month from \$1,609 (note: the rate is 15 percent higher in Planning District 8). A staff report to the Commission earlier this fall noted that the rate had remained relatively flat for more than 10 years with the exception of cost-of-living adjustments to comply with federal requirements. For local governments, an increase in the overall rate means a cost increase because localities pay a 20 percent match on every Auxiliary Grant.

The Commission also approved a policy recommendation to seek a budget amendment to increase the personal needs allowance for each Auxiliary Grant recipient to \$100 and include language pegging increases in the allowance at the same rate as future cost of living Auxiliary Grant rate increases. The allowance of \$81 has not been increased since 2014. The personal needs allowance allows an individual to buy personal items and services not provided as part of housing services paid for by the Auxiliary Grant.

The Commission also approved a policy recommendation to seek a Code change to expand the list of eligible living arrangements in which the Auxiliary Grant could be used. Currently, the Grant can be used for individuals living in assisted living facilities, adult foster care, and supportive

housing. Expanding the eligible uses would likely increase the number of recipients and therefore the cost of the program. The extent to which the program would be expanded is to be determined and requires approval by the Social Security Administration.

## **Local Health Departments**

The Commission adopted several policy recommendations from its study of local health department structure and financing. Most of the adopted recommendations will be addressed in a letter to the Virginia Department of Health. Those include:

- Amend the Code of Virginia to require local health departments (LHDs) to ensure availability of clinical services, either by the LHD or by other providers and facilitate access to and linkage with clinical care, as well as address chronic disease and injury prevention. This would include updating the Local Government Agreements to reflect these changes.
- Design a state performance management process for LHDs, with the goals of assessing the ability of each LHD to meet minimum capacity requirements, assisting in continuous quality improvement, and providing a transparent accountability mechanism to ensure public health functions are being met.
- Develop a plan for a centralized data system that will enable VDH to access necessary data from all LHDs to allow for assessment and performance management, as well as greater data sharing with stakeholders and the public.
- Introduce a budget amendment to provide additional funding to VDH for loan repayment programs for LHD staff.
- Recommend that VDH create regional operations and facilities management positions to assist LHDs.
- Create a requirement for all health districts to participate in the CHA/CHIP process, in coordination with the state health assessment process and local health system Community Health Needs Assessments and update the Local Government Agreements to reflect these changes.

- Determine the funding necessary to provide sufficient communications capacity across all health districts.
- Request that VDH track cooperative budget funding per capita, compare that funding to the identified needs of each LHD, and make appropriate adjustments as additional funding is made available.
- Ask VDH to update state regulations for environmental health services to increase inspection fees and adjust them based on the type of establishment being inspected, to account for the typical time it takes to conduct the inspection.

The Commission also approved the following as a legislative initiative for the 2023 Session:

- Introduce a budget amendment to fund targeted increases for LHD staff base salaries to align with current industry salary benchmarks.

**VML Contact:** Janet Areson, [jareson@vml.org](mailto:jareson@vml.org)

[\[top of page\]](#)

## CSA/special education move won't happen (for now)

A report from the two-year long workgroup that examined the issue of moving the responsibility for payment of special education out-of-school placements (private day school or residential) from the Children's Services Act (CSA) program to the Virginia Department of Education concluded that no move would take place for now. This means that CSA will continue to contract for and pay the cost of private day placements.

**VML Contact:** Janet Areson, [jareson@vml.org](mailto:jareson@vml.org)

[\[top of page\]](#)

## JLARC releases study of CSBs

While Community Services Boards (CSBs) face many serious challenges to providing behavioral health services, including staff shortages, a growing demand for more intensive

services, and increasing administrative demands that detract from direct consumer care, a study by the Joint Legislative Audit and Review Commission (JLARC) concluded that there is no compelling evidence that adopting a new structure for community-based behavioral health service delivery would be more efficient or effective

However, JLARC recommended several improvements to ensure that the system operates as efficiently and effectively as possible and that CSBs are held accountable for their performance.

ARC staff were directed to review CSB behavioral health funding, staffing, and outcomes as well as CSB services for individuals experiencing behavioral health emergencies. Staff were also directed to review the structure of the CSB system to identify any possible opportunities to strengthen the effectiveness and efficiency of service delivery.

JLARC's 22 recommendations for the General Assembly include:

- Fund a salary increase for direct care staff at CSBs.
- Receive annual reports from the Department to the General Assembly regarding average salaries, turnover, and vacancy rates across CSBs.
- Direct DBHDS to look at documentation requirements of CSBs and eliminate any that are not essential to ensuring effective or timely services or are duplicative or conflicting.
- Consider contracting with higher education institutions to establish training and technical assistance for preadmission screening clinicians, particularly when quality improvement is deemed necessary.
- Consider additional funding to help CSB hire additional staff for residential crisis stabilization units whose bed capacity isn't fully used because of staffing shortages.
- Consider amending the Code to repeal the requirement that every state facility, CSB, and private inpatient provider licensed by DBHDS participate in the acute psychiatric bed registry.
- Have DBHDS complete a comprehensive review of performance contracts and revise performance measures

to better measure relevant consumer experiences and outcomes and ensure DBHDS gives clear direction on how it will monitor performance and enforce compliance with performance requirements.

- Consider ways for DBHDS to regularly monitor CSB compliance in meeting performance contract requirements and use enforcement mechanisms as necessary to ensure CSBs are in substantial compliance with contracts.

**VML Contact:** Janet Areson, [jareson@vml.org](mailto:jareson@vml.org)

[\[top of page\]](#)

## Opioid Settlement

# Opioid Settlement resources for localities

The Virginia Auditor of Public Accounts (APA) has released guidance to localities for financial reporting of opioid settlement funds (the guidance is [available here](#)). Please note that the APA references the Opioid Abatement Authority (OAA) "Gold Standard." This will help localities meet not only the requirements of the various settlements, but also to meet the stricter requirements of OAA funds.

The APA has also posted a [Locality Look-Up Tool](#). This tool allows users to look up the actual and estimated future direct share payments to every city and county in the Commonwealth from the Distributors and Janssen settlements.

Both these resources are also available the OAA website [www.oaa.virginia.gov](http://www.oaa.virginia.gov).

**OAA Contact:** Tony McDowell, Executive Director of the Virginia Opioid Abatement Authority, [tmcdowell@voaa.us](mailto:tmcdowell@voaa.us)

[\[top of page\]](#)

## Resources & Opportunities

# VAPDC to host winter series First Fridays in 2023

The Virginia Association of Planning Commissions (VAPDC) returns with a short series of educational and informational programs to kick off the new year. These three online meetings will cover pertinent topics for the first quarter of 2023.

## Meeting Schedule

### **Session 1—Friday, January 6, 2023, 12:00 – 1:00 PM**

- Gearing up for the Virginia General Assembly

### **Session 2—Friday, February 5, 2023, 12:00 – 1:00 PM**

- Equity in the Workplace

### **Session 3—Friday, March 5, 2023, 12:00 – 1:00 PM**

- Cybersecurity

[Register for one or more sessions here >](#)

Once registered, participants will receive login information to be able to join the day of the event.

**VAPDC Contact:** David Blount, [DBlount@tjpd.org](mailto:DBlount@tjpd.org)

[\[top of page\]](#)

## Winter 2022 Municipal Utility Survey due Dec. 27

As a reminder, utilities not subject to regulation by the State Corporation Commission (municipal utilities) are required to submit information on the status of customer accounts to the Commission on Local Government (CLG).

The current Municipal Utility Survey [may be found here >](#).

**The deadline for submission of the survey is by end of day on December 27.** There will be no extensions as the report is due to the General Assembly on December 30.

## Background

[Item 4-14.00 Paragraph 7h](#) of the 2020 Appropriations Act, as amended, requires utilities not subject to regulation by the

State Corporation Commission (municipal utilities) to submit information on the status of customer accounts to the Commission on Local Government (CLG). Each utility is required to report to the CLG information covering specific time periods. For purposes of this report, that time period covers the end of the universal prohibition established in clause 7.a of the 2020 Appropriations Act (identified by staff as September 1, 2021) through December 16, 2022. Previously, this has also been referred to as *Report 4*.

With the exception of the change in reporting period, all other elements of this survey are identical to the previous Winter 2021 Municipal Utility Survey, also referred to as *Report 3*.

**DHCD Contact:** [utility@dhcd.virginia.gov](mailto:utility@dhcd.virginia.gov).

[\[top of page\]](#)

## **FCC National Broadband Map: Challenge process for local governments deadline is Jan. 13**

On November 18, the FCC released the first iteration of the National Broadband Map. This map is an important tool that will impact targeted funding and other efforts to bring broadband to unserved and underserved communities. Therefore, the need for accurate data where broadband service is available and not available has never been of greater importance. Importantly, the release of the map also kicks off the public fixed availability challenge process, which will play an important role in ensuring the map's data is accurate across local communities.

More information and tools are available in the [National League of Cities \(NLC\) blog here >](#).

**Note:** A key data tool (dashboard) is linked in the blog where local leaders can look up their city, town or village and see FCC data compared to other metrics specific to their individual community.

The National Telecommunications and Information Administration (NTIA) has announced that the deadline to submit challenges for them to be incorporated into the BEAD allocations is **January 13**.

This holiday season the Martinsville Bulletin is partnering with **Lester Building Supply** who are sponsoring **206 free 3-month digital subscriptions for new subscribers.**



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TOP STORY

## Judges unimpressed with City at reversion hearing

**Bill Wyatt**

Dec 5, 2022



The virtual hearing on reversion was attended by Court Reporter M. Strumm (from top left), City Attorney Eric Monday, Judge W. Reilly Marchant, Martinsville Counsel Stephen Piepgrass, Henry County Counsel Jeremy Carroll, County Attorney George Lyle and Judge Fredrick A. Rowlett.

SCREENSHOT

Bill Wyatt

**N**o decision was made at Monday's hearing on reversion, but the judges presiding offered plenty of comments during the proceeding, and none of them appeared to be in support of the city.

Martinsville vs. Henry County was heard virtually by a special court that began at 1:30 p.m. and lasted just over an hour. The matter at hand: to hear arguments from both sides regarding the city's request for the court to compel both sides to settle their differences through arbitration regarding the city's effort to revert from an independent city to a town within Henry County.

In March, the Supreme Court of Virginia appointed W. Reilly Marchant of the 13th Judicial Circuit (Richmond) as Chief Judge, Frederick A. Rowlett of the 28th Judicial Circuit (the city of Bristol, Smyth and Washington counties) and Rufus A. Banks Jr. of the 1st Judicial Circuit (Chesapeake) to a three-judge panel.

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## People are also reading...

- 1 Court and arrest reports for Martinsville and Henry and Patrick counties**
- 2 Patrick County grand jury hands down 32 indictments**
- 3 Court and arrest reports for Martinsville and Henry and Patrick counties**
- 4 City Council Member Chad Martin unloads on the air**

---

Marchant and Rowlett presided over the hearing on Monday.

Martinsville outside counsel Stephen Piepgrass argued that despite a breakdown in negotiated reversion between the city and the county, a Memorandum of Understanding (MOU) between both parties was still binding, effective and enforceable.

"Martinsville didn't enter into reversion lightly," said Piepgrass. "We've been looking into this since the 1950s. Martinsville has a declining population with services remaining pretty much the same. Reversion is inevitable. There is no other way to increase the tax

base, and that's why the experts have all concluded that reversion is necessary to prevent Martinsville from becoming a failed city."

Piepgrass explained to the court how both parties reached an agreement through arbitration resulting in an approved and signed MOU.

"We then worked to put the meat on the bones," Piepgrass said. "A joint resolution was approved and signed."

City Council approved a Voluntary Settlement Agreement (VSA) on Nov. 9, then the Board of Supervisors, on Dec. 14, rejected it.

Rowlett pointed out that there was no disputing that the Henry County Board of Supervisors ultimately rejected agreeing to a cooperative agreement with Martinsville on reversion, and Marchant agreed.

"The problem is you didn't get a majority vote by both bodies," said Marchant. "What is there to arbitrate? What's left? You had certain steps and one was that both affirm this thing, and one of them didn't."

Piepgrass maintained the MOU remained an enforceable contract even with the County backing out.

"I disagree," said Marchant. "It's not effective. The board did not approve it. The Board of Supervisors is not at the table. The thing was voted down. If settlement doesn't happen then the only avenue left is a contested reversion."

Piepgrass said the city was already "on the contested reversion path," but the MOU would provide the framework on how the contested process would play out.

"You're asking us to rule on voluntary and involuntary agreements at the same time," said Rowlett.

"You go under a contested reversion unless there is an agreement," Marchant said. "I don't see any basis for a hybrid. You can't have both."

Rowlett questioned whether the special court had the statutory authority to rule on the matter.

“Any private parties can enter into settlements, but we have guidelines as to how this is to be settled, and you’ve got to go through these steps,” said Marchant. “You can’t just say we’re all grownups and we can do what we want. I think you’re twisting here. This attempts to avoid the requirements. It’s just a way to avoid it. You don’t give me much to work with on that.”

Rowlett added that the City’s request cut out a “built-in process for the citizenry to weigh in” on the matter.

“The citizenry gets the right to weigh in,” said Rowlett. “They get another crack at it.”

Piepgross suggested that the Virginia Arbitration Act provides that the MOU between City and County “survives” and must be followed.

“You’ve got these arbitration provisions that you want to bootstrap, and I understand what you’re doing,” Rowlett said. “You’re asking if not one, then give us the other.”

Marchant reached a point in the discussion where it became obvious he found no merit in the city’s argument.

“Why do you need us for this?” asked Marchant. “This is contested; there is no settlement. It seems moot. Henry County is not on board with it. The Board of Supervisors can vote as they see fit. You can’t seem to accept that you don’t control the Board of Supervisors. You don’t want to accept that you are stalemated by the Board of Supervisors that you have no control over.”

The meeting began with instructions that the City would be given 30 minutes to make its argument, the County would have 30 minutes to respond and the City would then be allowed 10 minutes to rebut the County’s response. Instead, the City’s time became a debate between Piepgross and the judges and extended beyond the allowed 30 minutes.

When the County was given its turn, outside counsel Jeremy Carroll spoke for just a few minutes.

“In the absence of a binding contract, there is no binding arbitration,” said Carroll. “We request that the court overrule this.”

Rowlett said the statutory language regarding the city’s request was precise.

Said Rowlett: “There is no legal authority for this.”

Judge Banks did not attend the virtual hearing on Monday, and Marchant said he would be provided a full transcript of the proceeding and then the special court would rule on the matter.

Said Marchant: “We’ll get back to you as soon as we can.”

Bill Wyatt is a reporter for the Martinsville Bulletin. He can be reached at 276-591-7543. Follow him @billdwyatt.

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## Loudoun landowner proposes more data centers

**Jeff Clabaugh** | [jclabaugh@wtop.com](mailto:jclabaugh@wtop.com)

November 15, 2022, 10:10 AM

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Chuck Kuhn, founder of [JK Moving Services](#) and one of the largest landowners in Loudoun County, is seeking county approval for a large data center and warehouse development on 112 acres he owns near Leesburg, Virginia.

JK Land Holdings LLC's proposal would replace asphalt and concrete plants on Cochran Mills Road.

- [More Loudoun County News](#)
- [More Business News](#)
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"The Cochran Mills area is tucked away and (has) long been used for heavy industrial, so our plan is a good fit and will contribute to the county's growth," Kuhn said. "This is also consistent with our goal to balance growth with preservation."

It is an assemblage of property that is currently zoned for a project such as the one Kuhn is proposing.

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[Loudoun County Economic Development](#) estimates data centers will generate more than \$600 million in revenue for the county this year.



favor of a large [data center complex in the Gainesville](#) area.

Kuhn has put much of the Loudoun County land he owns or acquires into conservation, and it totals more than 22,000 acres. He and his family recently donated 128 acres to NOVA Parks. The former 134-acre Westpark Golf Course property in Leesburg [is being redeveloped as a park](#). Kuhn turned 150-acres near Purcellville into the nonprofit [JK Community Farm](#).



Chuck Kuhn wants Loudoun County to approve a large data center. (Courtesy Chuck Kuhn)

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Last year, the Kuhn family bought the [shuttered Middleburg Academy](#) and surrounding 89 acres. The land was placed into conservation easement. [Cornerstone Chapel](#) bought the Academy and plans to reopen it as a school for its church.

AD



**Jeff Clabaugh**

Jeff Clabaugh has spent 20 years covering the Washington region's economy and financial markets for WTOP as part of a partnership with the Washington Business Journal, and officially joined the WTOP newsroom staff in January 2016.

[jclabaugh@wtop.com](mailto:jclabaugh@wtop.com)

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